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## **Exhibit A**

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American Council for Voluntary International Action

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Henrietta H. Fore  
Acting Administrator, U.S. Agency for International Development  
Ronald Reagan Building  
Washington, D.C. 20523-1000

Mike Leavitt  
Secretary, U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Administrator Fore and Secretary Leavitt:

I write regarding the ongoing implementation of the requirement that non-governmental organizations adopt policies explicitly opposing prostitution in order to participate in the U.S. government's important program to combat HIV/AIDS internationally.

As the largest alliance of U.S.-based international development and humanitarian nongovernmental organizations, InterAction has long been concerned about the impact of this "policy requirement" on our members' ability to provide HIV prevention and humanitarian services and to use private funds to speak freely about important policy matters.

InterAction welcomes the decision to permit PEPFAR recipients a channel through which to use non-government funds to speak freely about the relationship between prostitution and HIV/AIDS. However, we have grave concerns about the model for creating that channel that appears to be under consideration. It is our understanding that the agencies are considering issuing guidelines for the formation of affiliates that are modeled on those applicable to Legal Services Corporation grantees.<sup>1</sup> Those requirements mandate that organizations set up legally and physically separate affiliates, with separate staff, in order to use non-government funds freely.

Aside from questions about whether such stringent separation requirements are necessary to meet the government's goals, InterAction has grave concerns about the extreme burden that such guidelines are likely to place on the operation of humanitarian organizations in the international arena.

First, such separation requirements would force development and humanitarian groups, who already stretch every dollar to its limit, to waste precious funds on duplicate offices and personnel around the world. This would be particularly challenging and expensive for organizations that operate in multiple countries. For example, an NGO operating in 25 countries would have to open 25 new, separate

<sup>1</sup> See Letter from Sean H. Lane, Asst. U.S. Attorney, to Hon. Catherine O'Hagan Wolfe, dated June 8, 2007, available at [www.brennancenter.org/laneletter060807](http://www.brennancenter.org/laneletter060807).



offices and hire 25 sets of new staff. This is simply not feasible. Moreover, the resulting waste will undermine our collective efforts, with government agencies, to leverage public-private partnerships to provide assistance to the broadest number of those in need.

Second, it is unrealistic to imagine that NGOs will be able to create affiliated, separate organizations in multiple developing countries when many of those governments are hostile to the presence of outside NGOs. In many countries, NGOs must obtain permission to operate or to open new offices. It is far from clear that new organizations, formed only for the purpose of meeting a complicated U.S. regulatory scheme, would even be able to obtain permission to operate under local law. And even if they could obtain such permission, the process could take years.

Third, InterAction is concerned about the impact of onerous separation requirements on our continued efforts to advocate, in partnership with the U.S. government, for the independence of NGOs around the world. Such rules run counter to our joint efforts to expound principles of NGO independence and freedom from onerous laws that impede the operation of NGOs. Indeed, InterAction members implement cooperative agreements with USAID to improve the technical, managerial and fundraising capabilities of local NGOs. In addition, InterAction is quite troubled by the potential precedent-setting nature of these types of separation requirements in the foreign aid context.

InterAction urges you and your colleagues to consider other, less onerous alternatives that would not require the creation of separate organizations and the opening of separate facilities with separate staff. I would welcome an opportunity to talk further with you about these concerns.

Sincerely,

Samuel A. Worthington  
President & CEO  
InterAction

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InterAction is a membership association of US private voluntary organizations engaged in international humanitarian efforts including relief, development, refugee assistance, environment, population, public policy, and global education.